

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-195-D

LIBERTY MUTUAL FIRE INSURANCE)
COMPANY, OHIO SECURITY INSURANCE)
COMPANY, and EMPLOYERS INSURANCE)
COMPANY, WAUSAU,)
Plaintiffs,)
v.)
INFINITE COMMUNICATIONS, INC.,)
Defendant.)

ORDER

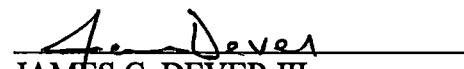
On June 16, 2017, defendant Infinite Communications, Inc., moved to dismiss the complaint for lack of subject-matter jurisdiction as to plaintiffs Ohio Security Insurance Company and Employers Insurance Company, Wausau [D.E. 17] and filed a memorandum in support [D.E. 18]. On July 7, 2017, plaintiffs Liberty Mutual Fire Insurance Company, Ohio Security Insurance Company, and Employers Insurance Company, Wausau responded in opposition [D.E. 19]. On July 21, 2017, Infinite Communications, Inc. replied [D.E. 20].

The court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1) over the action between Liberty Mutual Fire Insurance Company and Infinite Communications, Inc. See Compl. [D.E. 1] ¶¶ 1,5, 6, 24–35, 60–66. The court has supplemental jurisdiction under 28 U.S.C. § 1337(a) over the claims of Ohio Security Insurance Company and Employers Insurance Company, Wausau. See Compl. [D.E. 1] ¶¶ 2–5, 53–59, 67–74; 28 U.S.C. § 1337(a). Although the better practice would have been to cite 28 U.S.C. § 1332(a) and 28 U.S.C. § 1337(a) in their complaint, plaintiffs' failure to cite 28 U.S.C. § 1337(a) does not defeat supplemental jurisdiction. See, e.g., Johnson v. City of

Shelby, 135 S. Ct. 346, 346–47 (2014) (per curiam); Fed. R. Civ. P. 8(a)(1); see also Exxon Mobile Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 559–67 (2005); Aleman v. Chugach Support Servs., Inc., 485 F.3d 206, 218 n.5 (4th Cir. 2007); Saval v. BL Ltd., 710 F.2d 1027, 1031 (4th Cir. 1983) (per curiam); Shenandoah Mobile, LLC v. Eduro Networks, LLC, No. 5:13CV102, 2014 WL 1232352, at *1–5 (W.D. Va. Mar. 24, 2014) (unpublished).

In sum, defendant's motion to dismiss [D.E. 17] is DENIED.

SO ORDERED. This 22 day of November 2017.


JAMES C. DEVER III
Chief United States District Judge